

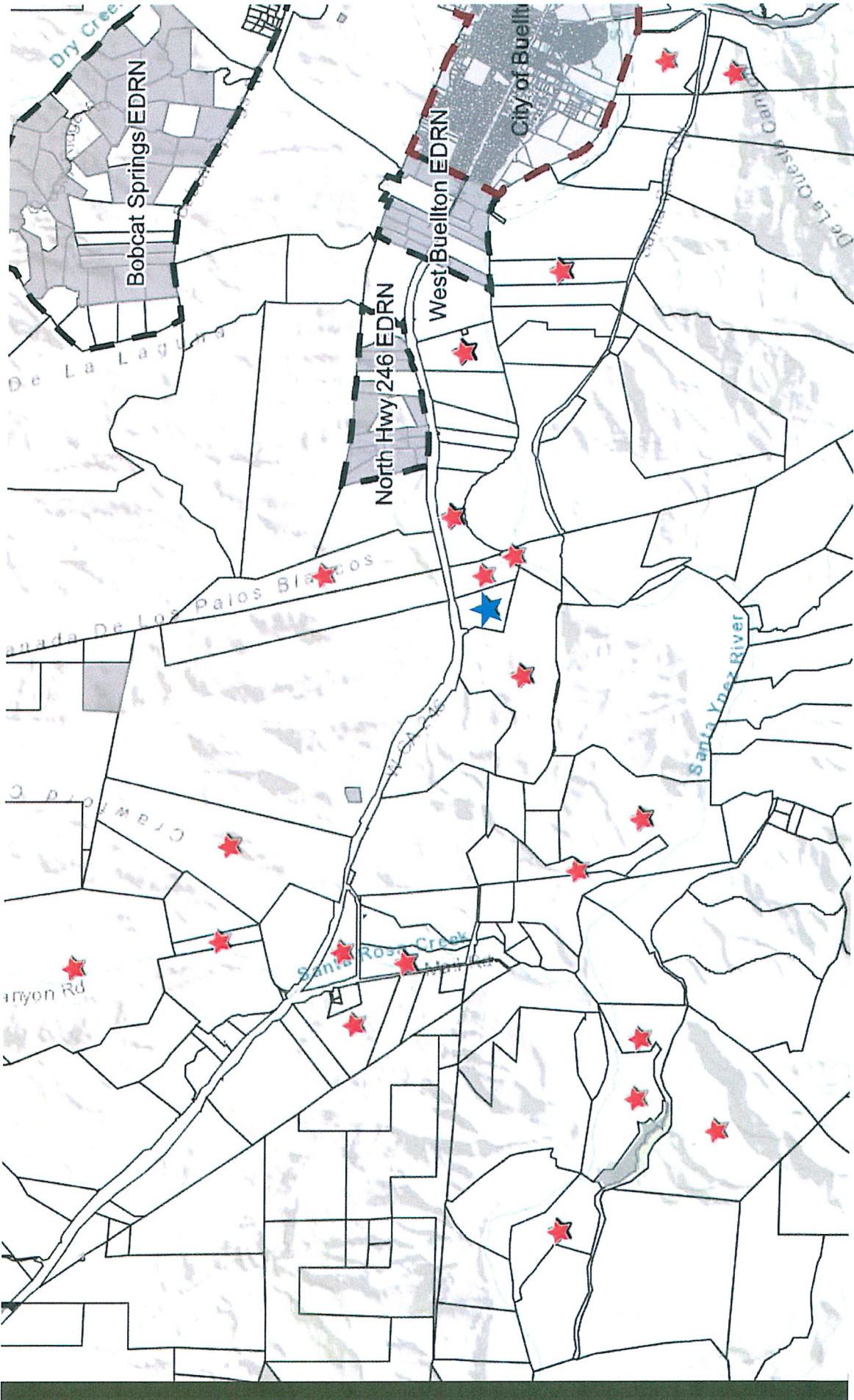
REPLACEMENT # 1
DATE 5/1/20 TIME 11:51 am

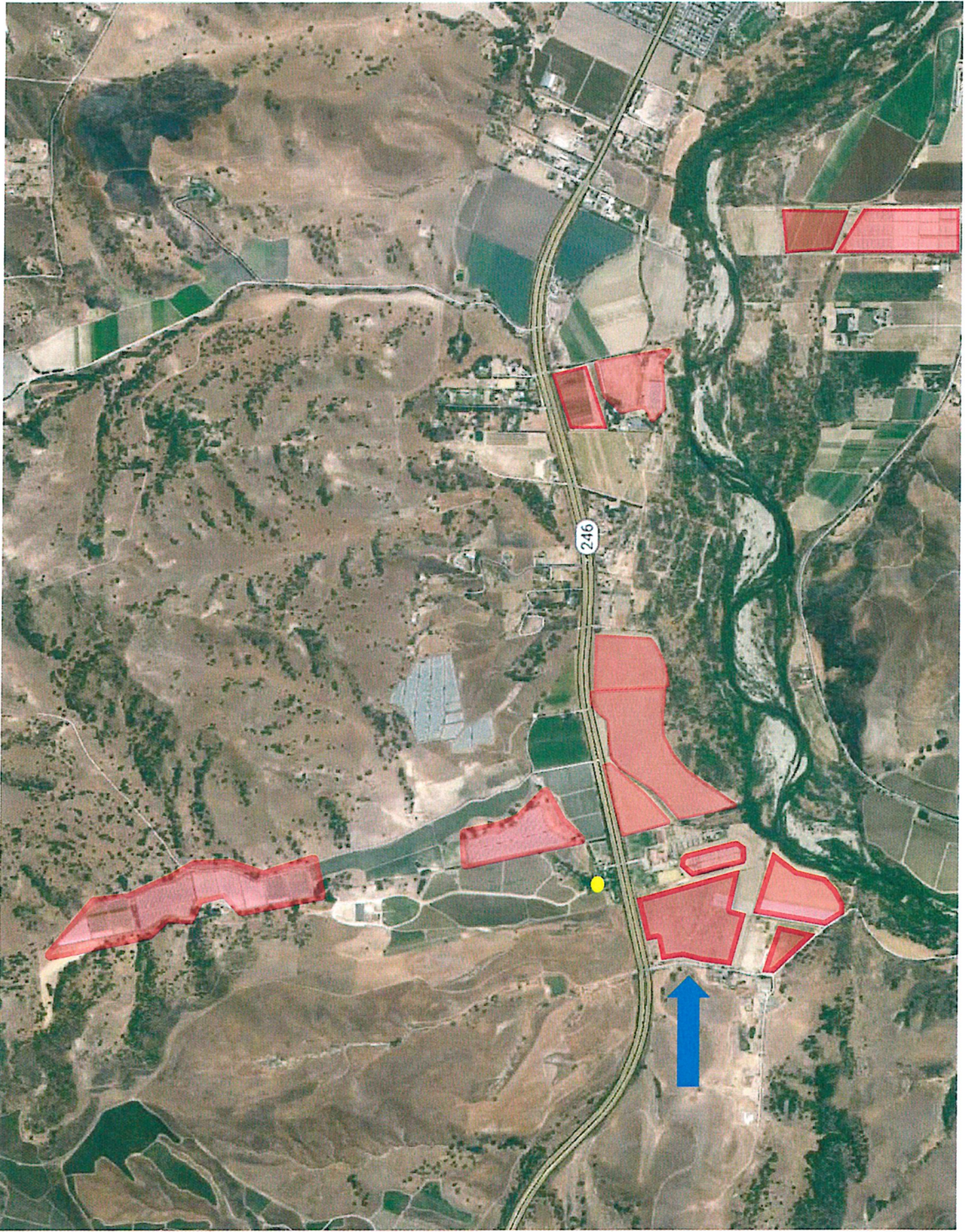
#7

LATE
DIST

PENCE APPEAL
SANTA RITA VALLEY AG., INC.
CANNABIS CULTIVATION
(OUTDOOR)

19APL-00000-00032





Permit Summary

- Planning Commission approved 12.75 acres (30% of parcel). **Applicant did not appeal, but requests revision to 32 acres (75% of parcel)**
- Processing: “at another licensed facility” but the location is not specified. **Project transportation plan is deficient for not supplying mandatory trip origins and destinations information**
- Meager Landscaping: trees and shrubs along Highway 246 but **no plant sizes specified on Plan**
- Lighting: Four motion-sensor, hooded light fixtures mounted 12 feet high near the entry gate, **but perimeter lighting may be required by Sheriff after LUP approval**
- **Two or three** harvest periods per year, each lasting ~ three weeks (**Project Description different from Transportation Plan**)

Key Cannabis Permit Issues

- Permit runs with the land: The permit is a permanent entitlement that does not run with the operator; is a permanent land use entitlement that is **WILL NOT BE REVOKED IF THE ASSOCIATED BUSINESS LICENSE IS REVOKED OR NOT RENEWED**
- Operators are only bound by the four corners of the permit: Assertions about operations that are not enumerated as a Project condition are not binding or enforceable – Applicant's are **LEASING** this parcel
- No Odor abatement: Mitigation on AG-II parcels is now feasible after amendments to the County's Right to Farm Ordinance – cannabis is only 700 feet from tasting room
- Not a Challenge to the PEIR: There are new impacts presented with this project that were not examined in the PEIR or will make the impacts more severe → CEQA requires project-level environmental review of these impacts

CEQA Requires Project-Level Review

- Board must comply with CEQA in all decisions - Here: Program EIR + CEQA Checklist
- Subsequent use of 2017 PEIR allowed ONLY IF PROJECT'S IMPACTS WERE ANALYZED IN PEIR
- Board must order additional, project-level environmental review if:
 - **Substantial changes** have occurred which result in:
 - significant effects that were not examined by the PEIR, or
 - the effects examined in the PEIR will be substantially more severe, or
 - mitigation measures previously found not to be feasible would now be feasible.
 - **New information**, which was not known and could not have been known at the time the PEIR was certified as complete, is available.

Newly Discovered, Project-specific Impacts to Agriculture Not Addressed in PEIR

1. **Pesticide conflict**
 - Conflict between cannabis and legacy agriculture over use of pesticides. Even legally-applied pesticides can migrate and contaminate cannabis, creating millions of dollars in liability
 - Crop management companies refuse to treat farms near cannabis
 - Viability of legacy agriculture is threatened – this parcel is surrounded by legacy agriculture

Evidence: Numerous Episodes, Grower Shipper Association and Ag Advisory Committee Letter that references THIS PROJECT

The AAC urges the Board of Supervisors to continue the appeals of Santa Barbara West Coast Farms, Santa Rita Valley AG, and Busy Bee Organics until the Planning Commission and Board of Supervisors resolve amendments to the Cannabis Zoning Ordinance.



Based on the best information we have available and the extent of conflict that our members and others in the agricultural community have experienced in trying to grow near hemp and cannabis, we do not believe that hemp or cannabis cultivation is compatible with organic or conventional Central Coast agriculture.

Our members have reported conflicts with neighbors growing both hemp and/or cannabis in a variety of crops and locations in Santa Barbara and San Luis Obispo Counties. The conflicts that our members have experienced are not isolated to one particular location, individual, or crop type. Although there are some limited locations that have not generated conflict, the majority of our members operating near hemp and/or cannabis have experienced significant and acrimonious conflict. The types of conflict include disputes over normal cultivation activities, such as land cultivation, application of plant protection materials, application of fertilizers, and threatened litigation; other conflicts have included harvest crews reporting concerns from strong odors sometimes several miles away. Crop types that have been embroiled in conflicts have included broccoli, wine grapes, avocado orchards, and citrus orchards. Local businesses and community members that have been impacted by this conflict include farmers, harvesters, rural residents, shippers, custom machine operators, materials applicators, and farm labor contractors. Given the great extent and diversity of intrinsic conflicts, we restate that these experiences of conflict are not isolated events and should give pause to the future of hemp and cannabis cultivation on the Central Coast.

Newly Discovered, Project-specific Impacts to Agriculture Not Addressed in PEIR

2. Terpene Migration

- Cannabis Terpenes detected in Santa Barbara County Grapes
- Studies demonstrate airborne pathway, wind data from this site show Pence is downwind
- Wine with excessive levels of certain terpenes is “Tainted”, impacting the County Brand
- Loss of agricultural viability for wine industry
- Study needed to quantify Impact - Testing of 2017 Pence wines were the WRONG vintage and wrong vineyard blocks – recognition threshold ranges from 3.2 ppb, test looked at ppm

Evidence: UC Davis Professor Anita Oberholster Letter:

“It is and continues to be my opinion that the concentration of proposed and existing cannabis facilities in close proximity to and upwind of winegrape-producing vineyards in the Santa Ynez Valley, **have a reasonable potential to alter the terpene composition of grapes grown in adjacent vineyards**. Changes in winegrape terpene composition and concentration could potentially change wine characteristics and result in wines considered tainted. If wines are tainted, it will have an adverse effect on the reputation and marketability of these wines and thus the viability of the wine industry in Santa Barbara County.”

Dr. Anita Oberholster
Faculty Member
UC Davis Dept. of viticulture and Enology

Peer Reviewed Capone Study Documented Airborne Transmission of Terpenes and Separately, Terpene Contamination from MOG

JOURNAL OF
AGRICULTURAL AND
FOOD CHEMISTRY

Article


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Vineyard and Fermentation Studies To Elucidate the Origin of 1,8-Cineole in Australian Red Wine

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 Supporting Information

ABSTRACT: Preliminary investigations revealed that the proximity of *Eucalyptus* trees to grapevines can directly influence the concentration of the aroma compound 1,8-cineole present in the corresponding red wines. For two different vineyards, the closer the grapevines were to the trees, the greater was the amount of 1,8-cineole in the wines elaborated from those grapes. This led us to carry out further studies to quantify the levels of 1,8-cineole found in grape berries, leaves, and stems at set distances from *Eucalyptus* trees over multiple vintages. Generally, the highest concentration of 1,8-cineole was found in the grapevine leaves, followed by grape stems and then grapes. In each sample type, we observed greater concentrations of 1,8-cineole in samples closer to the trees. Various fermentation treatments carried out with Shiraz grapes showed that matter other than grapes (MOG, e.g., *Eucalyptus* or grape leaves) could contribute significant amounts of 1,8-cineole to the finished wines. These studies confirmed that vineyard position and winemaking conditions can determine the 1,8-cineole concentration in red wine. The fermentation study also showed for the first time that the concentration of rotundone in red wine can be strongly influenced by grapevine leaves and stems in the ferment.

KEYWORDS: 1,8-cineole, GC-MS, *Eucalyptus* trees, rotundone, wine aroma, red wine

Capone Study Excerpts – Airborne Terpene Transfer

To verify that airborne transmission of 1,8-cineole was possible, as first suggested by Herve et al.,³ we designed volatile traps for use in the vineyard (Figure 1A). The traps comprised polyethylene sheets sewn between wire mesh and installed in the same rows as the fruit collected for the study. Polyethylene sheets were chosen because our previous work on 2,4,6-trichloroanisole¹⁶ and flavor scalping¹⁷ showed polyethylene to be a good adsorber of nonpolar volatile compounds. We confirmed that 1,8-cineole could be adsorbed onto the polyethylene prior to installation of the traps in the vineyard (data not shown). In vintage 2008, the traps were installed in a vertical position only, whereas in vintage 2009, they were installed in both horizontal and vertical positions (Figure 1B). The traps installed in the vertical orientation in both vintages showed similar trends, where the greater concentrations of 1,8-cineole were found in the samples closest to the *Eucalyptus* trees (Table 1). This highlighted that aerial transfer of 1,8-

“This indicated the possibility that 1,8-cineole can be transferred as an aerosol as well as or instead of in the vapor phase.” p. 2285

Table 1. Average Concentration of 1,8-Cineole ($\mu\text{g}/\text{trap}$) and Standard Deviation (SD) Determined for Triplicate Polyethylene Traps Suspended in the Grapevine Canopy in Different Rows, Which Were at Increasing Distance from *Eucalyptus* Trees

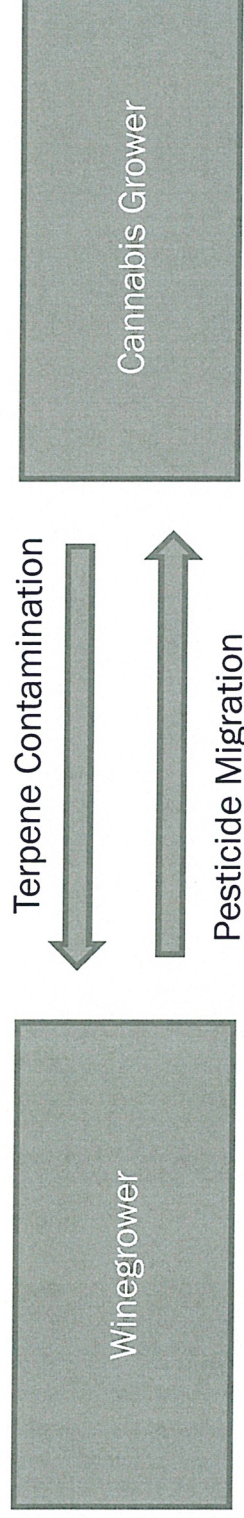
row position	trap position and vintage					
	vertical 2008		vertical 2009		horizontal 2009	
	SD	SD	SD	SD	SD	SD
row 1	1.0	0.3	0.65	0.3	0.9	0.3
row 10	0.6	0.2	nd ^a		2.3	0.1
row 20	0.5	0.1	nd		1.7	0.9
row 60	0.4		nd		nd	

^and < 0.05 $\mu\text{g}/\text{trap}$.

cineole was possible and distance was a potential factor. The

Land Use Incompatibility is a CEQA Impact

Key Land Use Conflict



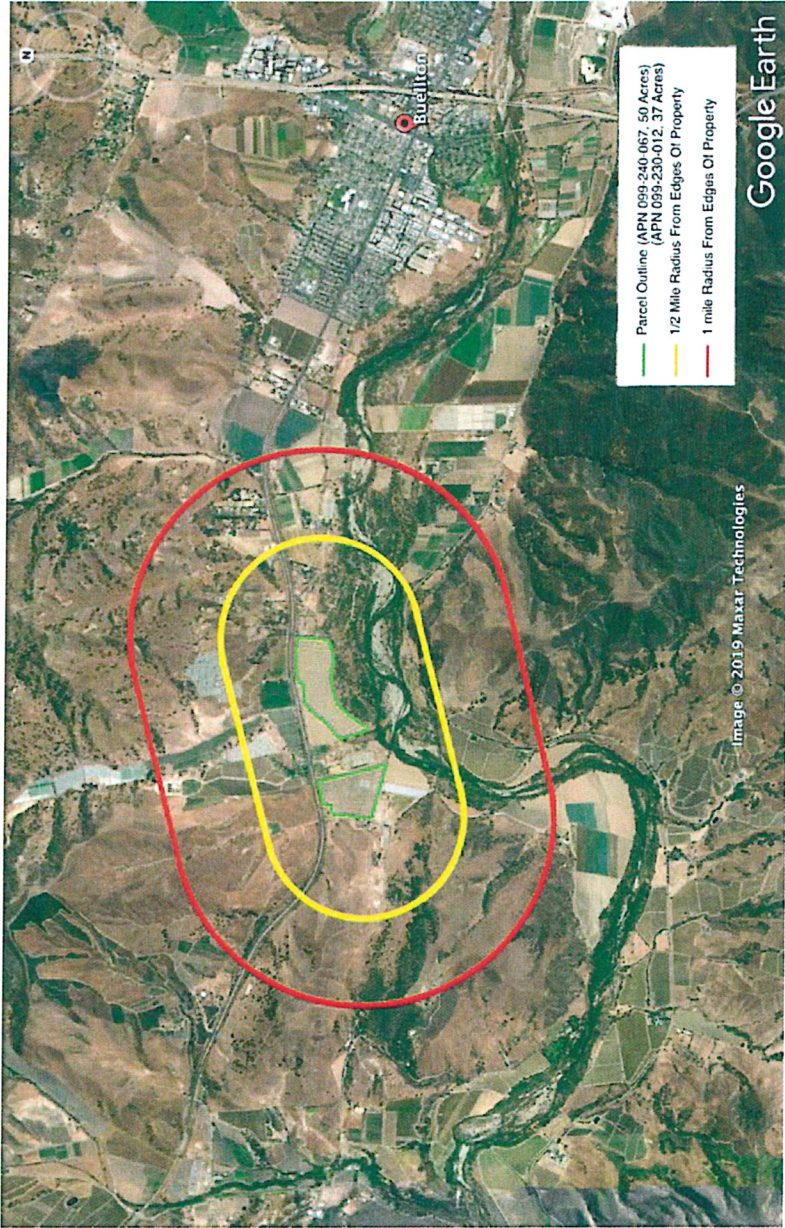
CEQA's environmental review process is an **informational tool**, to help decisionmakers **understand the environmental consequences of decisions**, and prevent stubborn problems from being swept under the rug..

Right to Farm Act now does not protect AG-II cannabis cultivation from County odor regulations

- PEIR determined no odor abatement mitigation should apply in AG-II zones:
 - *Agricultural operations are not typically monitored for their odors and are generally protected from odor related and other complaints under the County's Right to Farm Ordinance"*
- On May 8, 2018, the County Board of Supervisors approved the amendment to the Right to Farm Act to exclude cannabis from its protections
- This is new information that a mitigation measure previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of this Project
- Significant cumulative odor impacts "outdoor" winetasting brand of the County

PEIR does not analyze or examine cumulative impact of projects along Highway 246

- 23 pending outdoor cannabis cultivation projects in the Santa Rita Valley area (avg. 30 acres each)
- Total 625 acres or 39% of Santa Barbara County's 1,575 acres cannabis production cap
- 155 acres surround almost all adjacent parcels to Pence Winery (50 approved now)
- PEIR does not analyze or examine cumulative impact
 - *Did not anticipate the number or size of the potential cultivation operations, or the magnitude of visual and odor*
 - *Potential cumulative impact to agriculture including from pesticide migration or terpene taint associated with this intensity of cannabis cultivation in this important wine producing region*

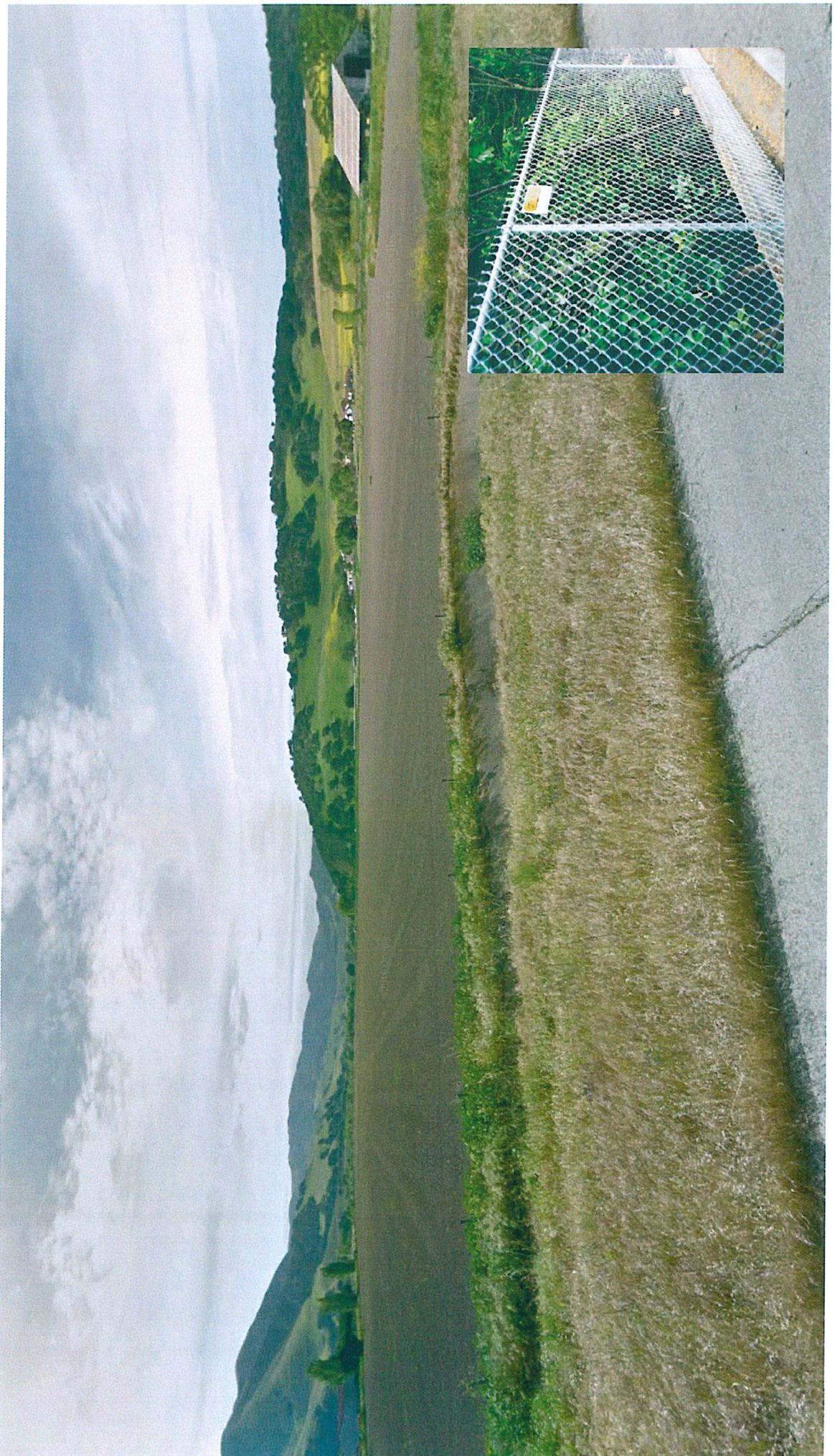


Cumulative Impacts: Sphere of Influence and Impacts

- 25 neighboring homes affected within 1/2 mile radius
- 54 neighboring homes affected within 1-mile radius
- Unknown number of agricultural employees on neighboring farms

Visual Impacts

- Highly visible from Highway 246
- Significant change to existing landscape and viewsheds





Inconsistency with Ag Element

GOAL I. Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported.

- THIS PERMIT jeopardizes the continuation of agriculture as major viable production industry:
 - Evidence: PCAs that won't spray farms because outdoor cannabis has zero pesticide tolerance, including farms within a mile of THIS PROJECT
 - Evidence: Winegrapes absorb cannabis terpenes and affect flavor, and Santa Barbara County's Wine Brand is disparaged if this cannabis cultivation proceeds in the middle of the Sta Rita Hills AVA without knowing Terpene Taint will NOT occur
- These Conditions do not allow this agricultural expansion at this site
 - **Grower-Shipper Ass'n: "All evidence suggests that cannabis is not similarly situated to agricultural crops, and these differences are driving severe conflicts."**

Grounds for Denial – Zoning Ordinance Violation

35.42.075.D.1.j:

Site Transportation Demand Management Plan. The applicant shall prepare and submit to the Department for review and approval a Site Transportation Demand Management Plan that includes the lot location, total number of employees, hours of operation, lot access and transportation routes, and trip origins and destinations.

Project Site Transportation and Management Plan ignores the ordinance and omits any characterization of Project traffic, failing to provide trip origins and destinations that are critical for an adequate and complete project application.

Germane to undisclosed “other licensed facility” that will be used for processing, and all other project circulation issues.

Summary – Basis for Project Denial

CEQA requires project-level review document

- PEIR has gaps from changed circumstances (Right to Farm – odor mitigation now feasible, severity of impacts from project clustering, severity of incompatibility)
- PEIR has gaps from new information (terpene taint impacting wine quality; pesticide migration)

Project does not conform to the General Plan

- Conflicts with surrounding agriculture - Terpenes and evidence of cannabis growers stopping nearby legacy farms from even organic pest control

Incomplete application Violates zoning ordinance

- Omission of important site, meteorological and project information
- Questions over Applicant authority

Summary - Additional Conditions

Reduce Project to 6.4 acres – 15% of Parcel

- Reasonable allocation of cap
- Reduces potential to cause terpene taint
- Enables necessary buffers and setbacks
- Minimizes agricultural conflicts

Require Odor Control

- Now feasible after post-PEIR Right to Farm amendment
- Require Applicant to develop and submit an Odor Abatement Plan
- Protects nearby residents, travelers and downwind communities